

Union Calendar No. 304

108TH CONGRESS
2D SESSION

H. R. 4226

[Report No. 108–526]

To amend title 49, United States Code, to make certain conforming changes to provisions governing the registration of aircraft and the recordation of instruments in order to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, known as the “Cape Town Treaty”.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2004

Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. MICA, and Mr. DEFazio) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

JUNE 8, 2004

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 28, 2004]

A BILL

To amend title 49, United States Code, to make certain conforming changes to provisions governing the registration of aircraft and the recordation of instruments in order to implement the Convention on International Interests in Mobile Equipment and the Protocol to the

Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, known as the “Cape Town Treaty”.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as “Cape Town Treaty Imple-*
 5 *mentation Act of 2004”.*

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 *(a) FINDINGS.—Congress finds the following:*

8 *(1) The Cape Town Treaty (as defined in section*
 9 *44113 of title 49, United States Code) extends modern*
 10 *commercial laws for the sale, finance, and lease of*
 11 *aircraft and aircraft engines to the international*
 12 *arena in a manner consistent with United States law*
 13 *and practice.*

14 *(2) The Cape Town Treaty provides for inter-*
 15 *nationally established and recognized financing and*
 16 *leasing rights that will provide greater security and*
 17 *commercial predictability in connection with the fi-*
 18 *nancing and leasing of highly mobile assets, such as*
 19 *aircraft and aircraft engines.*

20 *(3) The legal and financing framework of the*
 21 *Cape Town Treaty will provide substantial economic*
 22 *benefits to the aviation and aerospace sectors, includ-*

1 *ing the promotion of exports, and will facilitate the*
 2 *acquisition of newer, safer aircraft around the world.*

3 *(4) Only technical changes to United States law*
 4 *and regulations are required since the asset-based fi-*
 5 *nancing and leasing concepts embodied in the Cape*
 6 *Town Treaty are already reflected in the United*
 7 *States in the Uniform Commercial Code.*

8 *(5) The new electronic registry system established*
 9 *under the Cape Town Treaty will work in tandem*
 10 *with current aircraft document recordation systems of*
 11 *the Federal Aviation Administration, which have*
 12 *served United States industry well.*

13 *(6) The United States Government was a leader*
 14 *in the development of the Cape Town Treaty.*

15 *(b) PURPOSE.—Accordingly, the purpose of this Act is*
 16 *to provide for the implementation of the Cape Town Treaty*
 17 *in the United States by making certain technical amend-*
 18 *ments to the provisions of chapter 441 of title 49, United*
 19 *States Code, directing the Federal Aviation Administration*
 20 *to complete the necessary rulemaking processes as expedi-*
 21 *tiously as possible, and clarifying the applicability of the*
 22 *Treaty during the rulemaking process.*

23 **SEC. 3. RECORDATION OF SECURITY INSTRUMENTS.**

24 *(a) ESTABLISHMENT OF SYSTEM.—Section 44107(a)*
 25 *of title 49, United States Code, is amended—*

1 (1) in paragraph (2)(A) by striking “750” and
2 inserting “550”; and

3 (2) in paragraph (3) by striking “clause (1) or
4 (2) of this subsection” and inserting “paragraph (1)
5 or (2)”.

6 (b) *INTERNATIONAL REGISTRY*.—Section 44107 of
7 such title is amended by adding at the end the following:

8 “(e) *INTERNATIONAL REGISTRY*.—

9 “(1) *DESIGNATION OF UNITED STATES ENTRY*
10 *POINT*.—As permitted under the Cape Town Treaty,
11 the Federal Aviation Administration Civil Aviation
12 Registry is designated as the United States Entry
13 Point to the International Registry relating to—

14 “(A) civil aircraft of the United States;

15 “(B) an aircraft for which a United States
16 identification number has been assigned but only
17 with regard to a notice filed under paragraph
18 (2); and

19 “(C) aircraft engines.

20 “(2) *SYSTEM FOR FILING NOTICE OF PROSPEC-*
21 *TIVE INTERESTS*.—

22 “(A) *ESTABLISHMENT*.—The Administrator
23 shall establish a system for filing notices of pro-
24 spective assignments and prospective inter-
25 national interests in, and prospective sales of,

1 *aircraft or aircraft engines described in para-*
2 *graph (1) under the Cape Town Treaty.*

3 “(B) *MAINTENANCE OF VALIDITY.*—*A filing*
4 *of a notice of prospective assignment, interest, or*
5 *sale under this paragraph and the registration*
6 *with the International Registry relating to such*
7 *assignment, interest, or sale shall not be valid*
8 *after the 60th day following the date of the filing*
9 *unless documents eligible for recording under*
10 *subsection (a) relating to such notice are filed for*
11 *recordation on or before such 60th day.*

12 “(3) *AUTHORIZATION FOR REGISTRATION OF*
13 *AIRCRAFT.*—*A registration with the International*
14 *Registry relating to an aircraft described in para-*
15 *graph (1) (other than subparagraph (C)) is valid only*
16 *if (A) the person seeking the registration first files*
17 *documents eligible for recording under subsection (a)*
18 *and relating to the registration with the United*
19 *States Entry Point, and (B) the United States Entry*
20 *Point authorizes the registration.”.*

21 **SEC. 4. REGULATIONS.**

22 (a) *IN GENERAL.*—*The Administrator of the Federal*
23 *Aviation Administration shall issue regulations necessary*
24 *to carry out this Act, including any amendments made by*
25 *this Act.*

1 (b) *CONTENTS OF REGULATIONS.*—*Regulations to be*
 2 *issued under this Act shall specify, at a minimum, the re-*
 3 *quirements for—*

4 (1) *the registration of aircraft previously reg-*
 5 *istered in a country in which the Cape Town Treaty*
 6 *is in effect; and*

7 (2) *the cancellation of registration of a civil air-*
 8 *craft of the United States based on a request made in*
 9 *accordance with the Cape Town Treaty.*

10 (c) *EXPEDITED RULEMAKING PROCESS.*—

11 (1) *FINAL RULE.*—*The Administrator shall issue*
 12 *regulations under this section by publishing a final*
 13 *rule by December 31, 2004.*

14 (2) *EFFECTIVE DATE.*—*The final rule shall not*
 15 *be effective before the date the Cape Town Treaty en-*
 16 *ters into force with respect to the United States.*

17 (3) *ECONOMIC ANALYSIS.*—*The Administrator*
 18 *shall not be required to prepare an economic analysis*
 19 *of the cost and benefits of the final rule.*

20 (d) *APPLICABILITY OF TREATY.*—*Notwithstanding*
 21 *parts 47.37(a)(3)(ii) and 47.47(a)(2) of title 14, of the Code*
 22 *of Federal Regulations, Articles IX(5) and XIII of the Cape*
 23 *Town Treaty shall apply to the matters described in sub-*
 24 *section (b) until the earlier of the effective date of the final*
 25 *rule under this section or December 31, 2004.*

1 **SEC. 5. LIMITATION ON VALIDITY OF CONVEYANCES,**
 2 **LEASES, AND SECURITY INSTRUMENTS.**

3 *Section 44108(c)(2) of title 49, United States Code, is*
 4 *amended by striking the period at the end and inserting*
 5 *“or the Cape Town Treaty, as applicable.”.*

6 **SEC. 6. DEFINITIONS.**

7 *(a) IN GENERAL.—Chapter 441 of title 49, United*
 8 *States Code, is amended by adding at the end the following:*

9 **“§44113. Definitions**

10 *“In this chapter, the following definitions apply:*

11 *“(1) CAPE TOWN TREATY.—The term ‘Cape*
 12 *Town Treaty’ means the Convention on International*
 13 *Interests in Mobile Equipment, as modified by the*
 14 *Protocol to the Convention on International Interests*
 15 *in Mobile Equipment on Matters Specific to Aircraft*
 16 *Equipment, signed at Rome on May 9, 2003.*

17 *“(2) UNITED STATES ENTRY POINT.—The term*
 18 *‘United States Entry Point’ means the Federal Avia-*
 19 *tion Administration Civil Aviation Registry.*

20 *“(3) INTERNATIONAL REGISTRY.—The term*
 21 *‘International Registry’ means the registry established*
 22 *under the Cape Town Treaty.”.*

23 *(b) CONFORMING AMENDMENT.—The analysis for such*
 24 *chapter is amended by adding at the end the following:*

“44113. Definitions.”.

1 **SEC. 7. EFFECTIVE DATE AND PRESERVATION OF PRIOR**
2 **RIGHTS.**

3 *This Act, including any amendments made by this*
4 *Act, shall take effect on the date the Cape Town Treaty (as*
5 *defined in section 44113 of title 49, United States Code)*
6 *enters into force with respect to the United States and shall*
7 *not apply to any registration or recordation that was made*
8 *before such effective date under chapter 441 of such title*
9 *or any legal rights relating to such registration or recorda-*
10 *tion.*

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